

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael A. Johnson and Kevin S. Breuker
For: SURFACE CLEANER WITH FOLDING UPRIGHT HANDLE
AND METHOD OF PACKAGING SAME
Serial No.: 10/707,392 Filed: 12/10/2003
Docket No. 71189-1573 Examiner: SNIDER, THERESA T
Group Art Unit: 1744

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

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transmitted EFS Web filing to the Patent and Trademark Office.

Signature

/Christine M. Judge/

Date: May 30, 2006

Christine M. Judge

(type or print name of person certifying)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

PETITION TO MAKE SPECIAL PURSUANT TO 37 CFR §1.102(d)

Applicant hereby petitions the Commissioner to make the above-referenced application special under the provisions of 37 CFR §1.102(d). Please charge any additional fees associated with this petition to our Deposit Account No. 50-2003.

Applicant requests advancement of the examination in the above-identified patent application under 37 CFR §1.102(d) and MPEP 708.02, II (Infringement) because of an infringement of the claims pending in this application. Applicant's attorney believes that at least some of these claims contain patentable subject matter that is being infringed by the manufacture, sale and offer for sale of a product that is currently being sold by and a method currently being used by competitors of Applicants' assignee, Bissell Homecare, Inc.

The undersigned attorney has inspected literature of least one competitor that is manufacturing and selling a floor cleaner that includes a folding handle construction and a method of packaging a surface cleaner that is claimed in the above-identified patent application.

In particular, one competitive product is a portable hard floor cleaner comprising a base module for movement along a surface, a handle assembly pivotally attached to the base module; a debris recovery system including a recovery container, a suction nozzle associated with the base module, a working air conduit extending between the recovery container and the suction nozzle; and a vacuum source in fluid communication with the recovery container for generating a flow of working air from the suction nozzle through the working air conduit and through the recovery container to thereby draw debris from a surface to be cleaned, through the suction nozzle and working air conduit and into the recovery container. Further, the handle assembly is formed by a lower housing section and a pivot section which is pivotally attached to the lower housing section for rotation of the pivot section with respect to the lower housing section so that the pivot section can be folded to a first position against the base section to place the extraction cleaner into a compact configuration, and unfolded to a second, upright position. The handle assembly further includes an upper handle portion removably attached to the pivot section for maneuvering the base of the floor cleaner along the surface to be cleaned.

The upper handle portion is separated from the remainder of the handle assembly and is packaged in a shipping container with the base and remainder of the handle assembly during shipment. In addition, the pivot section is rotated to the compact configuration during shipment.

The undersigned attorney has made a rigid comparison between the claims in this application and the competitive product set forth above and is of the opinion that at least claims 1, 8, 9 and 11-15 of the above identified patent application are allowable over all references known to applicant and have a scope which encompasses the competitive floor cleaner set forth above. Thus, in the opinion of the undersigned attorney, the manufacture, use, sale, or offer for sale of the competitive floor cleaner described above

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Filed: 05/19/2004
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Examiner: M. Horabik
Group Art Unit: 2635

is unquestionably an infringement of at least claims 1, 8, 9 and 11-15 in the above-identified patent application.

A careful and thorough search has been made by Applicant's attorney. The results of this search have been submitted to the U.S. Patent and Trademark Office.

In view of the foregoing, Applicant requests that the above-identified patent application be advanced out of order for examination at the earliest possible opportunity.

Respectfully submitted,

Michael A. Johnson and Kevin S. Breuker

Dated: May 30, 2006

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